

REMARKS

Claims 1-6 and 8-11 are pending. Claims 1-6 and 8-11 stand rejected. Claims 1 and 4 have been amended. Importantly, the claim amendments should not be construed to be an acquiescence to any of the claim rejections. Rather, the amendments are being made solely to expedite the prosecution of the above-identified application. The Applicants expressly reserve the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 U.S.C. § 120.

Request for Withdrawal of Premature Final Rejection

The Applicants respectfully request withdrawal of the Final Rejection in the outstanding Office Action. Specifically, the Applicants contend that the finality of the Office Action was inappropriate because the Examiner introduced a new grounds of rejection that was not necessitated by a claim amendment.

In the previous Amendment & Response, the Applicants narrowed and canceled pending claims. Therefore, if the Examiner contends that Yu anticipates the pending claims, the same rejection might have been advanced in the initial, non-final Office Action. In other words, the rejection was not made on the basis of a claim amendment. The MPEP states “under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97(c) with the fee set forth in 37 C.F.R. 1.17(p).” MPEP § 706.07(a). The Applicants respectfully contend that this MPEP excerpt is dispositive.

Accordingly, the Applicants request withdrawal of the Final Rejection.

Response to Claim Rejections based on 35 U.S.C. § 102(b)

Claims 1-6 and 8-11 stand rejected as being anticipated by Yu (US 6,224,173). The Examiner contends that Yu discloses a tray comprising non-tapered square cavities that are substantially symmetrically open-ended at each end.

The Applicants point out that Yu discloses a storage assembly which includes an outer casing and ribbed holding frames that must be inserted into the outer casing. The holding frames

are connected to the outer casing with fastening devices. In other words, the Yu apparatus is constructed of at least two pieces of material.

In order to expedite prosecution, the Applicants have amended claim 1 to require that "said tray and said rib are constructed of a continuous piece of material." The amendment to claim 1 finds explicit support in the application as filed. For example, Figures 2-5 of the instant application unambiguously depict a structure where the trays and ribs are constructed of a continuous piece of material.

Accordingly, the Applicants respectfully request the withdrawal of the rejections of claims 1-6 and 8-11 based on 35 U.S.C. § 102(b).

Fees

The Applicants believe they have provided the required fee in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account, No. 06-1448 reference RCX-022.01.

Conclusion

In view of the above amendment and remarks, it is believed that the pending claims are in condition for allowance. The Applicants respectfully request reconsideration and withdrawal of the pending rejections. If a telephone conversation with Applicants' Attorney would expedite prosecution of the above-identified application, the Examiner is urged to contact the undersigned.

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Respectfully submitted,
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